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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 LAUREL PARK COMMUNITY, LLC, a
Washington limited liability company;
9 TUMWATER ESTATES INVESTORS, a
California limited partnership;
10 VELKOMMEN MOBILE PARK, LLC, a
Washington limited liability company; and
11 MANUFACTURED HOUSING
COMMUNITIES OF WASHINGTON, a
Washington non-profit corporation,

12
13 Plaintiffs,

14 vs.

15 CITY OF TUMWATER, a municipal
corporation,

16 Defendant.

NO. C09-5312-BHS

DECLARATION OF
CHRIS CARLSON IN RESPONSE
TO MOTION FOR SUMMARY
JUDGMENT

17
18 PURSUANT TO 28 U.S.C. § 1746, Jeffrey S. Myers declares as follows:

19 1. I am the Planning Manager with the City of Tumwater Development Services
20 Department. I am over the age of 18, competent to be a witness and make this declaration on
21 personal knowledge.

22 2. Part of my responsibilities is to review applications for permits for placement
23 or replacement of manufactured homes within mobile home parks. The City of Tumwater
24 was requested to issue a permit for replacement of a single-wide manufactured house
25 within Laurel Park. At the time this was being considered, the City's Code, TMC
26 18.48.150(A) required that mobile homes be replaced by a "designated manufactured
home" which is generally recognized as a double-wide manufactured home. Due to this

DECLARATION OF CHRIS CARLSON

- 1

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 RW JOHNSON BLVD, TUMWATER, WA 98512
PO BOX 11880, OLYMPIA, WA 98508-1880
(360) 754-3480 FAX: (360) 357-3511

code provision, the City determined that Laurel Park's request should be denied. This was appealed to the City Hearing Examiner by Laurel Park Community, LLC on December 4, 2009. In response to that appeal, the City agreed to amend its code to respond to provisions of RCW 35A.21.312 which was amended in 2008 to preclude restrictions based on the dimensions of mobile homes. The City and Laurel Park reached an agreement to stay the appeal so the City could consider the amendment to its code that would allow the single-wide mobile home to be placed within Laurel Park. A copy of Mr. Olsen's letter to me dated January 8, 2010, acknowledging Laurel Park's agreement to toll the appeal is attached as **Exhibit A**.

3. On February 16, 2010, the City Council considered an amendment of its code precisely to allow placement of a single-wide mobile home. The City adopted Ordinance No. O2010-001 which conforms to RCW 35A.21.312. A true and correct copy of Ordinance O2010-001 is attached hereto as **Exhibit B**. This new ordinance will allow the owners of Laurel Park to replace single-wide mobile homes with replacement single-wide homes.

4. On March 19, 2010, the City issued the requested permit for the replacement home to Laurel Park and it was picked up by their contractor. A true and correct copy of that permit is attached as **Exhibit C**.

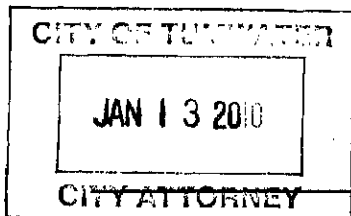
I make this declaration under penalty of perjury under the laws of the State of Washington.

DATED this 19th day of March, 2010.

Chris Carlson

Chris Carlson

EXHIBIT A

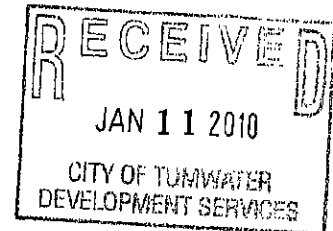


OLSEN LAW FIRM PLLC

WALTER H. OLSEN, JR., ATTORNEY AT LAW
B. TONY BRANSON, ATTORNEY AT LAW

CYNTHIA THOMPSON, PARALEGAL
DOUG SCHARNHORST, PARALEGAL/CONTROLLER
JANICE L. MUNSON, PARALEGAL
KELLEY J. GILBERTSON, ADMINISTRATIVE ASSISTANT

January 8, 2010



VIA FACSIMILE TO 360-754-4126 AND U.S. MAIL

Mr. Chris Carlson
City of Tumwater
555 Israel Rd. S.W.
Tumwater, WA 98501

Re: *Notice of Appeal of Administrative Determination dated November 23, 2009*
Replacement Homes in Mobile Home, Manufactured Home, and Designated
Manufactured Home Parks

Dear Mr. Carlson:

As we discussed before the holidays, Laurel Park agrees to toll the above pending
~~appeal pending the Planning Commission's and City Council's review and amendment of~~
TMC 18.04. In doing so, both parties reserve any legal rights they may have.

Sincerely,

LAUREL PARK COMMUNITY LLC

By: Walter H. Olsen, Jr., Its Attorney

EXHIBIT B

ORDINANCE NO. O2010-001

AN ORDINANCE of the City Council of the City of Tumwater, Washington, amending TMC Chapter 18.48 regarding the replacement of mobile homes, manufactured homes and designated manufactured homes in mobile/manufactured home parks and the use of recreational vehicles as primary residences, as more particularly set forth herein.

WHEREAS, the City of Tumwater has adopted a Comprehensive Plan, in accordance with the State Growth Management Act (GMA); and,

WHEREAS, the proposed amendments meet GMA requirements for consistency with the comprehensive plan and County-wide planning policies; and,

WHEREAS, the City of Tumwater has adopted a Comprehensive Plan that includes all elements required by the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, the Growth Management Act requires that the City of Tumwater adopt development regulations, including zoning, that are consistent with and implement its Comprehensive Plan; and

WHEREAS, the City of Tumwater has prepared the amendments to the municipal code that are included in this ordinance, in accordance with the City of Tumwater Citizen Participation and Intergovernmental Coordination Policy (Resolution No. 418); and

WHEREAS, these amendments meet the intent of and are consistent with the State Environmental Policy Act, the Washington State Growth Management Act, County-Wide Planning Policies, and internal goals and policies of the Tumwater Comprehensive Plan, and RCW Section 35A.21.312; and

WHEREAS, a Determination of Nonsignificance was issued on January 27, 2010, in accordance with the State Environmental Policy Act (SEPA) (chapter 43.21C RCW) and in compliance with Chapter 16.04 of the Tumwater Municipal Code; and

WHEREAS, the Tumwater Planning Commission held a public hearing on January 26, 2010, and considered all testimony and evidence before making a recommendation to City Council; and

WHEREAS, the Tumwater City Council held a public hearing on the recommendation on February 16, 2010, to accept public testimony relating to this matter;

WHEREAS, the Tumwater City Council, after considering all of the testimony and evidence, finds the amendments support the health, safety, and welfare and are in the best interest of the residents of the City of Tumwater;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER,
STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 18.48 of the Tumwater Municipal Code is hereby amended to add a new section 18.48.160, Replacement of existing mobile, manufactured, and designated manufactured homes within mobile or manufactured home parks, as follows:

18.48.160 Replacement of existing mobile, manufactured, and designated manufactured homes within mobile or manufactured home parks.

In accordance with RCW 35A.21.312, mobile homes, manufactured homes (including new manufactured homes), and designated manufactured homes shall be allowed to locate within mobile and manufactured home parks that existed prior to June 12, 2008. Additionally, each such mobile home, manufactured home or designated manufactured home shall have smoke alarms installed. Smoke alarms shall be installed in the following locations:

- A. In each sleeping room.
- B. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
- C. On each additional story of the dwelling, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Section 2. Chapter 18.48 of the Tumwater Municipal Code is hereby amended to add a new section 18.48.170, Recreational vehicles, as follows:

18.48.170 Recreational vehicles.

Recreational vehicles may be used as primary residences in manufactured/mobile home parks provided they have at least:

- A. One internal toilet and one internal shower or the manufactured/mobile home park provides toilets and showers.

B. Smoke alarms. Smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval and publication as provided by law.

ADOPTED this 16th day of February, 2010.


CITY OF TUMWATER


Pete Kmet, Mayor

ATTEST:


James Hendrickson, City Clerk

APPROVED AS TO FORM:

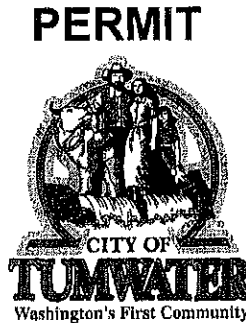

Karen Kirkpatrick, City Attorney

Published: 02-18-2010

Effective Date: 03-18-2010

EXHIBIT C

CITY OF TUMWATER
555 ISRAEL ROAD SW
TUMWATER, WA 98501
PH: (360) 754-4180
FAX: (360) 754-4126
E-Mail: devsvcs@ci.tumwater.wa.us



PERMIT NUMBER: DSD-09-0857
APPLIED: 10/30/2009
ISSUED: 3/19/2010
EXPIRES: 9/15/2010
VALUATION:
MASTER PERMIT:

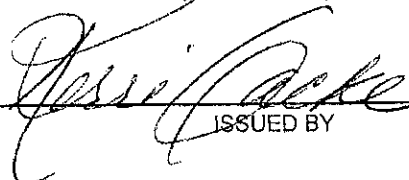
PROJECT: EICHLER MANUFACTURED HOME
Project Address: 3244 66TH AVE SW SPACE 10
Assessor's Parcel No: 79900002200
Permit Type: NEW MANUFACTURED HOME
Permit Description: INSTALLATION OF A 14 x 70 MOBILE HOME.

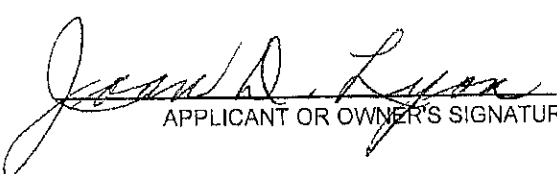
OWNER	CONTRACTOR	LENDER
ROBERT M EICHLER 24 ROY ST UNIT 748 SEATTLE WA 98109 (206) 441-8980	CROWN MOBILE HOMES SET-UP/SVC 7434 RICH RD SE Olympia WA 98501 (360) 491-6572	NOT PROVIDED

BUILDING			
INVESTIGATION FEE	N	RPT GROUP: RES MANUFACTURED	mobile
SQUARE FOOTAGE	980	MANUFACTURED HOME TYPE	mobile
MANUFACTURED HOME WIDTH	single	# OF UNITS	1
# OF SIDE SEWER	1	# OF BUILDING WATER	1
# OF RAIN WATER SYSTEMS	1	WATER METER-1ST	n/a
WATER METER-2ND	n/a	IRRIGATION METER-1ST	n/a
ROW RESIDENTIAL ACCESS/UTILITY	n/a	EXISTING TRANS IMPACT TYPE	n/a
EXISTING TRANS IMP UOM TYPE	n/a	TRANS IMPACT FEE TYPE	n/a
TRANS IMPACT UOM TYPE	n/a	OLYMPIA SCHOOL IMPACT FEE	n/a
TUMWATER SCHOOL IMPACT FEE	n/a		

FEES			
MANUFACTURED HOME	\$150.00	DSD-PLUMBING PERMIT FEE	\$49.00
DSD-PLUMBING PLAN REVIEW	\$31.85		
Total Permit Fees			\$230.85

NOTICE: Separate electrical permits are required from the Department of Labor & Industries. This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be compiled with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.


 ISSUED BY


 APPLICANT OR OWNER'S SIGNATURE

24 Hour Notice Required For All Inspections
 For Inspections Call: (360) 754-4189

**CITY OF TUMWATER
NON-STRUCTURAL PLAN REVIEW
CORRECTION LIST
BASED ON 2006 INTERNATIONAL RESIDENTIAL CODES**

PERMIT NUMBER: DSD-09-0857

DATE: March 18, 2010

PROJECT NAME: Manufactured Home

PROJECT ADDRESS: 3244 66th Avenue SW, #10

OWNER: Robert Eichler

CONTRACTOR: Crown Mobile Homes

PLANS REVIEWER: David Curry

TYPE OF CONSTRUCTION: V-B **OCCUPANCY GROUP:** R-3

COMMENTS / CORRECTIONS:

1. TUMWATER MUNICIPAL CODE REQUIRES THAT A CERTIFICATE OF OCCUPANCY BE ISSUED PRIOR TO THE BUILDING BEING OCCUPIED. ALL FINAL INSPECTIONS SHALL BE COMPLETED AND APPROVED PRIOR TO A CERTIFICATE OF OCCUPANCY BEING ISSUED.
2. Maintain minimum clearance from street frontage and property line set backs as shown on approved plans.

ENGINEERING COMMENTS:

1. STORMWATER
Storm water from roof drains is to be infiltrated onsite. Roof dry wells shall be constructed to City standards and are to be approved and inspected by the Building Division.

GENERAL COMMENTS:

1. Footings shall be: (WAC 296-150B-230)
 - a. Evenly bedded and leveled.
 - b. Placed on firm undisturbed soil free of organic material.
 - c. Centered on a line directly under the mainframe.
 - d. Spaced not more than 8 feet apart, and not more than 2 feet from the ends of the main frame.
2. Blocking is required at both ends of a door opening that is 6 feet or more wide in an exterior wall. WAC 296-150B-230(3).

3. Footing shall be constructed so that 75% of the area under the manufactured home has at least 18 inches clearance between the bottom of the main chassis member and the ground level. **At no point under the manufactured home may clearance be less than 12 inches.** WAC 296-150-230(5)
4. An installer may fill a gap between the top of a pier and the main frame, with a wood plate that is not more than 2 inches thick, and two opposing wedge-shaped shims that are not more than 2 inches thick. A shim shall be at least 4 inches wide and 6 inches long. WAC 296-150B-240
5. An installer shall install, preload, and adjust the ground anchors in accordance with the anchor manufacturer's installation instructions.
6. The building sewer shall maintain a minimum of a 2 percent slope.
7. Install 4 mill black vapor barrier on the ground space under mobile home. WAC 296-150B-225
8. A manufactured home shall have an approved foundation fascia around its entire perimeter. The wood of the fascia shall be at least three inches from the ground unless it is pressure-treated wood approved for ground contact use. Metal fasteners shall be galvanized, stainless steel or other corrosion-resistant material. Ferrous metal members in contact with the earth, other than those that are galvanized or stainless steel, shall be coated with asphalt emulsion. WC 296-150B-245
9. Dryer vents and hot water tank pressure relief valves shall exhaust in the exterior of the foundation fascia. WAC 296-150B-245 (3)
10. Under floor ventilation shall have on square foot of vent per 150 square feet of floor area. WAC 296-150B-245 (2)
11. Provide a minimum access to the crawl space of 18" x 24". WAC 296-150B-245 (3)
12. Exterior landings shall be a minimum of 36" x 36". Stairs and handrails shall conform to Chapter 3 of the IRC.

GENERAL NOTES:

1. All contractors, subcontractors or other concerns doing business related to this project shall obtain a City of Tumwater business license prior to beginning work. Applications for this license are available at Tumwater City Hall. TMC 508
2. Any deviations from the approved plans and specifications shall be submitted by the designing engineer in writing **and approved by the Building Safety Official before the change is made.**
3. All work shall remain accessible and exposed for inspection until approved by the Building Safety Official. Any work covered prior to inspection and approval shall be made accessible for inspection.
4. It is the responsibility of the person doing the work authorized by a permit to notify the Building Safety Official that such work is ready for inspection. Request for inspection shall be made in writing or may be called in by the applicant 24 hours in advance.
5. When calling for final inspection or certificate of occupancy inspections, you must have obtained the following approvals (where appropriate) prior to requesting final inspection:

State electrical

City of Tumwater Engineering

When these approvals have been obtained, a final inspection by the Building Safety Division may be requested.

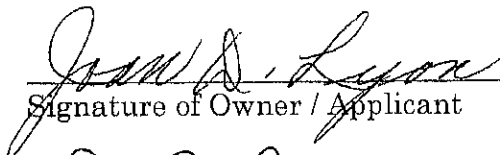
Electrical service lines are required to be installed below ground.

THESE SHEETS ARE A PART OF THE PLANS AND SHALL REMAIN ATTACHED THERETO. THE APPROVAL OF PLANS AND SPECIFICATIONS DOES NOT PERMIT THE VIOLATION OF ANY SECTION OF THE BUILDING CODE OR OTHER CITY ORDINANCE OR STATE LAW.

NO BUILDING OR STRUCTURE OR PORTION THEREOF SHALL BE USED WITHOUT FINAL INSPECTION AND APPROVAL/

I have read the information herein and agree to the revisions stated in the "review comments" section written above.

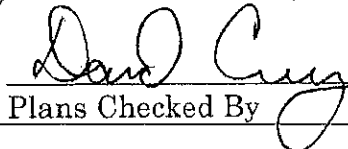
I agree NOT to occupy this structure until final inspection and approval by the Building Safety Division.



Signature of Owner / Applicant

3/19/10

Date



Plans Checked By

3/19/10

Date